

Message Text

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PAGE 01 STATE 126697

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FM SECSTATE WASHDC

TO AMEMBASSY PRAGUE IMMEDIATE

C O N F I D E N T I A L STATE 126697

EXDIS

E. O. 11652, GDS

TAGS: PFOR, CGEN, CZ

SUBJECT: CONSULAR CONVENTION WITH CZECHOSLOVAKIA

REF: (A) PRAGUE' S 1453; (B) PRAGUE' S 1446;

(C) STATE 122763

1. DEPARTMENT DESIRES CONSULAR CONVENTION TO BE READY
FOR SIGNING BY JULY 9. IT IS BELIEVED THIS DEADLINE CAN
BE MET IF, AS CZECHOSLOVAKS HAVE INDICATED, DUAL
NATIONALS ISSUE IS SETTLED BY JULY 3. DEPT WILLING
TO FURNISH LEGAL EXPERT TO EXPEDITE NEGOTIATIONS.

2. CONCERNING CHANGES PROPOSED BY CZECHS IN U. S. DRAFT
EXCHANGE OF NOTES ON DUAL NATIONALS (PARA 2, REF B),
DEPT WOULD FIND IT DIFFICULT TO LIVE WITH SUBSTITUTION
OF WORD QTE CITIZEN UNQTE FOR QTE PERSON UNQTE FOR
FOLLOWING REASONS: (1) PRIMARY PURPOSE OF EXCHANGE IS
TO ESTABLISH PRECISE PROCEDURE FOR DEALING WITH CONSULAR
PROTECTION IN CASES INVOLVING DUAL NATIONALS, WITHOUT
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PAGE 02 STATE 126697

REFERENCE TO RECEIVING STATES DETERMINATION AS TO NATIONALITY (OR CITIZENSHIP) OF PERSON INVOLVED. TO LIMIT GUARANTEES OF CONVENTION ONLY TO QTE CITIZENS UNQTE BEGS THE VERY QUESTION BEING DEALT WITH. (2) IT IS A FIRM TENET OF INTERNATIONAL LAW THAT ONE STATE IS INCOMPETENT TO DETERMINE THE CITIZENSHIP STATUS OF AN INDIVIDUAL IN ANOTHER STATE; THEREFORE, DEPT WISHES

TO AVOID ANY UNNECESSARY PROBLEMS IN THIS SENSITIVE AREA WHICH MIGHT RESULT IN DELAYS AND DISPUTES FURTHER DILUTING THE SPECIFIC GUARANTEES CONTAINED IN THE CONVENTION. THUS, MORE WORKABLE WORD QTE PERSON UNQTE SHOULD BE RETAINED IN LIEU OF QTE CITIZEN UNQTE. (NOTE: WERE WORD QTE CITIZEN UNQTE TO BE USED, IT WOULD APPEAR AS QTE NATIONAL UNQTE IN US TEXT.)

3. IN LIGHT OF POSITION STATED ABOVE, EMBASSY REQUESTED APPROACH CZECHS WITH VIEW TOWARDS DETERMINING ACTUAL MOTIVATION BEHIND SUGGESTED CHANGES. FOLLOWING POSITION SHOULD BE TAKEN: (1) SINCE US ISSUES PASSPORTS ONLY TO U. S. NATIONALS, THERE IS NO POSSIBILITY THAT INDIVIDUALS WHO ARE NATIONALS OF THIRD STATE ONLY WILL BE AFFECTED INsofar AS OBLIGATIONS OF THE GOC ARE CONCERNED. (2) PURPOSE OF EXCHANGE IS TO ESTABLISH WORKABLE MODUS OPERANDI IN CASES INVOLVING POSSIBLE DIFFERENCES OF OPINION ON CITIZENSHIP MATTERS AND AVOIDANCE OF SUCH DIFFERENCES IS ESSENTIAL TO THE EFFECTIVE OPERATION OF THE AGREEMENT. SINCE THE PASSPORT AND VISA POSSESSED BY THE INDIVIDUAL IN QUESTION ARE DETERMINATIVE OF HIS RIGHTS WITH RESPECT TO CONSULAR PROTECTION, QUESTION OF QTE CITIZENSHIP UNQTE IS IRRELEVANT AND COMPLICATES SOLUTION OF THE BASIC PROBLEM.

4. WITH RESPECT TO THE GOC PROPOSAL TO DELETE REFERENCE TO THE 1928 NATURALIZATION TREATY, AGAIN DEPARTMENT WOULD PREFER RETENTION THIS LANGUAGE; HOWEVER, IF TRADE- OFF CAN BE MADE WITH ISSUE DISCUSSED PARAS 2 AND 3 ABOVE, DEPARTMENT WOULD CONSIDER ITS DELETION. ROGERS

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